IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

Crl.MC.No. 3754 of 2007()

CC.22/2007 of JUDL.MAGISTRATE OF FIRST CLASS-II, ERNAKULAM
CRIME NO.215/04 OF ERNAKULAM TOWN NORTH POLICE STATION

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PETITIONER: ACCUSED

SONY, S/O.JACOB, AGED 26 YEARS,
DRIVER, MYLAPRA HOUSE, UDYOGAMANDAL P.O.,
ELOOR DESOM, ELOOR VILLAGE, PARUR TALUK,
ERNAKULAM DISTRICT.

BY ADV. SRI.P.M.ZIRAJ

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HONOURABLE HIGH COURT OF
KERALA AT ERNAKULAM REPRESENTED BY SUB INSPECTOR
OF POLICE, ERNAKULAM TOWN NORTH POLICE STATION.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 17/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3754 of 2007

Dated this the 17th day of December, 2007

O R D E R

Petitioner faces indictment for offences punishable under Section 379 r/w 34 I.P.C. The crux of the allegations is that the petitioner along with co-accused had committed theft of a car. The learned counsel for the petitioner submits that the petitioner was arrested and enlarged on bail at the crime stage. Investigation continued. Final report was filed. Cognizance was taken and C.C. 22 of 2007 was registered before the learned Magistrate. The petitioner had not received any notice or summons from the court. He had hence not appeared before the learned Magistrate. The learned Magistrate has hence taken coercive steps against the petitioner. A warrant of arrest issued by the learned Magistrate is chasing the petitioner now.

2. According to the petitioner, he is absolutely innocent. His absence was not wilful or deliberate. No notice or summons of the court having been served on him, the petitioner did not know that he was expected to appear before the learned Magistrate. The petitioner is willing to surrender before the learned Magistrate and apply for bail. But he apprehends that his application for regular bail may not

be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore prayed that directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-